

EXHIBIT 70

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEXIA SA/NV, DEXIA HOLDINGS INC.,
FSA ASSET MANAGEMENT LLC and
DEXIA CREDIT LOCAL SA, EFC Case

Plaintiffs,

vs. No. 12-cv-4761 (JSR)

BEAR STEARNS AND CO., INC., THE
BEAR STEARNS COMPANIES, INC.,
BEAR STEARNS ASSET BACKED
SECURITIES I LLC, EMC MORTGAGE
LLC (f/k/a EMC MORTGAGE
CORPORATION), STRUCTURED ASSET
MORTGAGE INVESTMENTS II, INC.,
J.P. MORGAN MORTGAGE ACQUISITION
CORPORATION, J.P. MORGAN
SECURITIES LLC (f/k/a JPMORGAN
SECURITIES INC.), WAMU ASSET
ACCEPTANCE CORP., WAMU CAPITAL
CORP., WAMU MORTGAGE SECURITIES
CORP., JPMORGAN CHASE & CO., and
JPMORGAN CHASE BANK, N.A.,

Defendants.

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DEPOSITION OF ILYA ERIC KOLCHINSKY

New York, New York

January 30, 2013

Reported by:
MARY F. BOWMAN, RPR, CRR
JOB NO. 57294

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2 this subject matter I have perform in that
3 scenario?

4 Q. Right. And that step is an
5 integral part of the methodology, right?

6 MR. LEBOVITCH: Objection to the
7 form.

8 A. It's an important -- you have to
9 understand, again, it is a lot of variation.
10 For some securities like credit cards, where
11 you don't have a lot of information about the
12 pool, you use averaging, because you don't
13 have that information.

14 For RMBS, you may have loan-level,
15 you may have pool-level information. So that
16 second step is a step of saying, here is my
17 scenario, how does this scenario affect
18 whatever I am looking -- either it is a loan
19 by loan, it's -- you know, for CMBS where you
20 have lease-level information, how does it
21 affect the lease? You know, if somebody
22 underwrites Worldwide Plaza where we are
23 sitting today, they're going to look at
24 Cravath, when is the lease running out, how
25 much are they paying, what happens at the end

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2 of that lease.

3 So the analysis that you do at that
4 credit model level really depends on what
5 information you have. So you can do pool
6 level, you can have loan level.

7 Q. Again, I think we are getting
8 confused between what that analysis might
9 entail versus just the simple existence of
10 that analysis as an essential step in the
11 approach to creating ratings or valuing a
12 tranche of RMBS, and it is an essential step
13 in the approach, correct?

14 A. It is. You have to --

15 MR. LEBOVITCH: Objection to the
16 form.

17 A. You need a step where you said,
18 here is my scenario, here is my collateral,
19 how does it perform. So that's an essential
20 step.

21 Q. That's essentially based on some
22 sort of quantitative modeling, correct?

23 MR. LEBOVITCH: Objection to the
24 form.

25 A. Generally it is based on

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2 quantitative modeling, yes.

3 Q. The third step you mentioned is,
4 what you described, what you called sort of a
5 waterfall model or the effects on the
6 different tranches --

7 A. That is correct.

8 Q. -- in the structure of the
9 security?

10 A. That is correct.

11 Q. Now, is that step, which I
12 understand could be analyzed in different
13 ways, but is that step an essential process
14 of the methodology for rating RMBS tranches
15 and valuing RMBS tranches in the work that
16 you have done either at rating agencies or
17 for the insurance commissioners?

18 MR. LEBOVITCH: Objection to form.

19 A. Again, I'm going to -- before I
20 answer, I want to detail some of the
21 variation you have. You have securities that
22 are pass-through securities where you don't
23 have any tranching. You have securities
24 where you have an immense amount of tranching
25 changes, not just subordination, but switches

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2 between cash flow.

3 So the amount of work you do on
4 that process really depends on the structure
5 you are looking at. But that obviously if
6 you have a structure, you have to understand
7 how the effect of the collateral affect now
8 the structure.

9 Q. And then the fourth step is
10 essentially the output of the first three
11 steps, the valuation of the tranche of
12 securities or the rating that gets applied to
13 them, right?

14 A. That is correct.

15 Q. So we talked a little bit about
16 your work at Moody's, within Moody's Investor
17 Services, up until the end of 2007. Then
18 from the end of 2007 until September of '09,
19 you worked in a different division of Moody's
20 called Moody's Analytics, right?

21 A. Yes. That is correct. It became
22 to be known as Moody's Analytics.

23 Q. So at Moody's Analytics, I just
24 want to understand, specifically, were you
25 involved in the rating of RMBS tranches?

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2 A. CPAs, yes.

3 Q. OK. To the New York Society of
4 CPAs, was that also something that you did
5 while you were in your time at Moody's
6 Analytics?

7 A. Yes. Yes, it was.

8 Q. So post -- can you sort of place it
9 in time anywhere between December of '07 and
10 when you left?

11 A. I do recall the -- to the best of
12 my recollection, the internal presentations
13 were sort of October '08-ish time frame.
14 There was a series of them.

15 Q. So who was the person, the head of
16 the financial institutions group within
17 Moody's Investor Services who made the
18 request to you to make this presentation
19 internally?

20 A. His name -- he was the head of the
21 credit policy for -- David Fanger.

22 Q. Fanger, F-a-n-g-e-r?

23 A. Yes.

24 Q. And he was head of credit policy
25 for all --

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2 A. At that time, financial -- he was
3 the head of credit policy -- to the best of
4 my recollection, I should say that, he was
5 the head of credit policy for financial
6 institutions, and may have been in the U.S.
7 I just knew him as the head of credit policy
8 for that group. I believe he is no longer in
9 that role.

10 Q. And so just kind of where in
11 general within the overall hierarchy of
12 Moody's would he fit, kind of on the org
13 chart?

14 MR. LEBOVITCH: Objection to form.

15 A. Well, let me just, to the extent I
16 can try, from my memory to --

17 Q. Of course.

18 A. -- recall. So Moody's
19 Corporation -- and I'm only talking about the
20 operating subsidiaries. There is a number of
21 legal subsidiaries, which I --

22 Q. No. That's -- I appreciate that
23 clarification.

24 A. There was Moody's Corp. at the
25 head, which is a publicly traded company. It

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2 MR. LEBOVITCH: Objection. Same
3 objection before to the hypothetical.

4 A. It is very hypothetical. I can't
5 really, just based on that question, I can't
6 really answer. I mean, the opinion goes to
7 the data quality that's been provided to the
8 rating agency.

9 MR. PASKIN: OK, let's take a short
10 break.

11 THE VIDEOGRAPHER: The time is
12 2:55, we are going off the record.

13 (Recess)

14 THE VIDEOGRAPHER: The time is
15 3:12, back on the record.

16 EXAMINATION BY

17 MR. ADDIS:

18 Q. Hi, Mr. Kolchinsky.

19 A. How are you.

20 Q. So it is your opinion that at the
21 times relevant to the issuance of the
22 securities in this case, the rating agency's
23 ratings hinged on the proper application of
24 loan sampling and loan due diligence
25 processes, correct?

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2 A. It is my opinion that those
3 functions would have helped to provide
4 correct data for the rating agencies which
5 would then change the rating.

6 Q. So it is your opinion that the
7 ratings hinged on the proper application of
8 loan sampling and loan due diligence
9 processes, correct?

10 A. No, I don't think that that's the
11 core of the opinion. Obviously what I'm
12 opining on is that the data that was being
13 fed into the rating agency models, if it was
14 correct, the ratings would not have been
15 triple A.

16 There is evidence here that the due
17 diligence was insufficient to make the data
18 correct. But I don't think I'm opining on
19 those things that you say.

20 Q. So it is not your opinion here
21 today that at the times relevant to the
22 issuance of the deals at issue, the relevant
23 rating agencies' ratings hinged upon the
24 proper application of loan sampling and loan
25 due diligence processes?